

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DONALD MILLER	§	
	§	
<i>Plaintiff</i>	§	
	§	
V.	§	CIVIL ACTION NO. _____
	§	JURY DEMANDED
	§	
WINCO MASONRY, LP	§	
	§	
<i>Defendant</i>	§	

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff DONALD MILLER, by and through his undersigned attorney, complains of Defendant WINCO MASONRY, LP.

JURISDICTION AND VENUE

1. This is an action brought to remedy discrimination in employment on the basis of race in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.* ("Title VII").
2. Injunctive and declaratory relief, damages, and other appropriate legal and equitable relief are sought pursuant to § 706(g) of Title VII, 42 U.S.C. § 2000e-5(g).
3. Plaintiff Donald Miller ("Plaintiff") filed a charge of discrimination against WINCO MASONRY ("Defendant") with the Equal Employment Opportunity Commission ("EEOC") on August 15, 2007, complaining of the acts of race-based discrimination described herein.
4. Plaintiff has fully complied with all prerequisites to jurisdiction in this Court under Title VII. Jurisdiction of this Court over this action is proper under § 706(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3).

5. The unlawful employment practices of which Plaintiff complains occurred within the Southern District of Texas and venue is therefore proper in this District pursuant to § 706(f)(3) of Title VII, 42 U.S.C. § 2000e-5(f)(3).

PARTIES

6. Defendant hired Plaintiff Donald Miller, a white male, on or about May 7, 2007 as a bricklayer for Defendant, Winco Masonry LP.

7. Defendant, Winco Masonry LP, is a masonry enterprise located in Porter, Texas.

FACTS

8. On May 31, 2007 Plaintiff's supervisor, Mike Pongratz, approached Plaintiff and informed him that he was the best bricklayer on the site. He stated that Plaintiff was the first one to arrive for work and the last to leave at the end of each workday. Plaintiff's supervisor then informed him that he was terminating his employment with Winco Masonry because the Mexican employees do not want to work with a white person and it was easier to terminate the employment of Plaintiff than to replace five Mexican employees. Plaintiff's supervisor further stated that Plaintiff was the wrong color to be a bricklayer in Texas. Plaintiff was the only white bricklayer on the job site.

CAUSE OF ACTION

9. The allegations of Paragraph 8 is incorporated as if set forth in full.

10. Plaintiff was terminated and denied employment because of his race in violation of Title VII, whereby he has suffered and will continue to suffer both irreparable injury and compensable damage unless and until this Court grants relief.

11. Defendant's acts of discrimination were performed with malice and reckless indifference to Plaintiff's civil rights.

WHEREFORE, Plaintiff respectfully prays that this Court enter a judgment;

- a. declaring that the acts and practices complained of herein are violations of Title VII;
- b. enjoining and permanently restraining these violations of Title VII;
- c. directing Defendant to take such affirmative steps as are necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect Plaintiff's employment opportunities;
- d. directing Defendant to make Plaintiff whole for all earnings and other benefits he would have received but for Defendant's discriminatory treatment, including but not limited to wages, front pay, pension, and other lost benefits;
- e. directing Defendant to pay Plaintiff compensatory and punitive damages for injuries suffered as a result of violation of the federal law;
- f. awarding Plaintiff the costs of this action, together with reasonable attorneys' fees, as provided by § 706(k) of Title VII, 42 U.S.C. § 2000e-5(k); and
- g. granting such other and further relief as the Court deems necessary and proper.

Respectfully submitted,

By: /s/ Clark Woodson III
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